

EXHIBIT A

COSTELLO & MAINS, LLC

By: Drake P. Bearden, Jr., Esquire
Attorney I.D. No. 039202009
18000 Horizon Way, Suite 800
Mount Laurel, NJ 08054
(856) 727-9700
Attorneys for Plaintiff

ROBERT HARPER,	:	SUPERIOR COURT OF NEW JERSEY
	:	MERCER COUNTY - LAW DIVISION
Plaintiff,	:	
	:	CIVIL ACTION
vs.	:	
	:	
AMAZON.COM SERVICES, INC. and	:	DOCKET NO:
JOHN DOES 1-5 AND 6-10.	:	
	:	
Defendants.	:	COMPLAINT AND JURY DEMAND

Plaintiff, Robert Harper, residing in the State of New Jersey, brings the following claims against Defendants:

Preliminary Statement

This matter is opened to the court pursuant to the New Jersey Wage Payment Law (“WPL”) and its prohibition against retaliating against an employee for engaging in protected conduct under that law.

Identification of Parties

1. Plaintiff Robert Harper is, at all relevant times herein, a resident of the State of New Jersey and former employee of Defendant as an Amazon Flex Driver.

2. Defendant Amazon.com Services, Inc. (“Amazon”) was, at all relevant times herein, a corporation operating in the State of New Jersey with its service of process address at Princeton South Corporate Center, Suite 160, 100 Charles Ewing Boulevard, Ewing, New Jersey 08628.

3. Defendants John Does 1-5 and 6-10, currently unidentified, are individuals and/or entities who, on the basis of their direct acts or on the basis of *respondeat superior*, are answerable to the Plaintiff for the acts set forth herein.

General Allegations

4. Plaintiff and similarly situated employees employed on or after the date three years immediately preceding the filing date of this Complaint as Amazon Flex Drivers have been willfully misclassified as “contractors” instead of as employees and denied minimum wage, denied overtime for hours worked in excess of 40 per week, have had tips unlawfully withheld and have been denied payment of agreed upon wages due for all hours worked.

5. Plaintiff worked as an Amazon Flex driver from April 26, 2019 through August 13, 2019.

6. During the time Plaintiff worked as an Amazon driver, Plaintiff signed a contract that stated Plaintiff would receive a minimum of \$18.00 per hour, and would receive 100% of customer tips Plaintiff received.

7. Amazon provides delivery service of consumer electronic goods to its customers on a nationwide basis, including in the State of New Jersey.

8. Amazon contracts directly with Amazon Flex drivers in the State of New Jersey to conduct these deliveries.

9. Although classified as independent contractors, Amazon Flex Drivers are actually employees within the meaning of the New Jersey Wage Payment Law and New Jersey Wage and Hour Law.

10. Amazon Flex Drivers receive unpaid training regarding how to interact with customers and how to handle issues they encounter while making deliveries.

11. Amazon Flex Drivers must follow Amazon's instructions regarding where to make deliveries, orders, and which route to take.

12. Amazon Flex Drivers can be penalized or terminated for missing scheduled shifts.

13. Amazon Flex Drivers also must follow requirements and rules imposed on them by Amazon and are subject to termination, based on Amazon's discretion.

14. Amazon Flex Drivers can be disciplined or terminated for their failure to adhere to Amazon's requirements including, but not limited to, rules regarding their conduct with customers, their timeliness in making deliveries, their scanning of packages, and their conduct when picking up or returning packages to the warehouse.

15. Amazon Flex Drivers provide their own vehicle, but are required to place an Amazon sign on the vehicle.

16. Amazon Flex Drivers' services are fully integrated with Amazon's businesses.

17. Amazon Flex Drivers are told they will be paid by the hour; however, the Amazon Flex Drivers are actually paid by the "block".

18. Amazon Flex Drivers are given a predetermined amount of packages, determined by Amazon, and those packages are supposed to be delivered within a two hour block of time.

19. Whether the drivers deliver the packages before the two hour block of time, or after the two hour block, the drivers are paid the same amount of money.

20. During the time Plaintiff worked for Amazon, Plaintiff would arrive at the warehouse to pick up his packages and the packages would not be ready.

21. On other occasions, Plaintiff would arrive at the warehouse to pick up his packages and there would be a malfunction with scanning and electronic equipment, and Plaintiff would have to wait for his packages.

22. On other occasions, Plaintiff would arrive at Amazon to pick up his packages, and Amazon employees would not be able to open the doors or access his packages because certain employees arrived late.

23. These acts, along with other incidences that were not the fault of the Plaintiff, often caused Plaintiff to have to begin his “block” late.

24. Plaintiff would then take longer than the two hour block of time to deliver the packages.

25. When Plaintiff would take longer than the two hour block of time to deliver the package, Plaintiff would submit a request to Amazon for additional compensation as a result of the additional work that he did.

26. However, on numerous occasions, Amazon either failed to compensate Plaintiff the amount that he was due, or failed to compensate Plaintiff at all for the additional hours he worked.

27. Plaintiff was also told by customers on multiple occasions that they tipped Plaintiff electronically.

28. However, Plaintiff was not given the tips by Amazon.

29. Plaintiff complained to Amazon about all of the problems listed in this complaint.

30. Those complaints included, but were not limited to, on June 8, 2019, Plaintiff complained that his additional time request had been denied and he was therefore earning less than \$18.00 per hour.

31. On August 12, 2019, Plaintiff complained again that his compensation was short and he had not been refunded for tolls per Defendant’s agreement with drivers.

32. Around the same time, Plaintiff complained by email that he was not receiving tips in his compensation.

33. Plaintiff and other Amazon Flex Drivers were also not compensated for necessary business expenses that they must pay such as gas and car maintenance.

34. Defendant terminated Plaintiff on August 14, 2019, approximately two days after Plaintiff's last complaint as a result of his complaints about Defendant's failure to properly compensate Plaintiff.

35. At the time Defendant terminated Plaintiff, Plaintiff was capable of performing all of the essential functions of his job.

36. Plaintiff engaged in protected activity pursuant to the WPL, when he complained about Defendant's conduct outlined above, which he reasonably believed violated the WPL.

37. Subsequent to Plaintiff engaging in this activity, Plaintiff was subjected to adverse employment actions including, but not limited to, Defendant terminating his employment.

38. A determinative and/or motivating factor in the adverse employment actions taken against Plaintiff was the fact that he engaged in the protected conduct outlined above.

39. Defendant's adverse employment actions were intentional, purposeful, willful, and egregious retaliation and performed by members of upper management making punitive damages warranted.

40. The fact that Plaintiff was directly retaliated against as a result of having engaged in protected conduct under WPL entitles her to compensatory damages under WPL as described below.

COUNT I

Violation of the Wage Payment Law for Retaliation

41. Plaintiff hereby repeats and realleges paragraphs 1 through 40, as though fully set forth herein.

42. Plaintiff engaged in protected conduct under the WPL when he made complaints that Defendant complained in conduct that violated the WPL as outlined at length above.

43. Subsequent to Plaintiff engaging in protected conduct, Defendant subjected Plaintiff to adverse employment actions because of that conduct include, but not limited to, terminating Plaintiff from his employment.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, including emotional distress and personal hardship, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, liquidated "treble" damages as allowed under the WPL, equitable reinstatement, equitable reinstatement or promotion and any other relief the Court deems equitable and just.

COUNT II

Request for Equitable Relief

44. Plaintiff hereby repeats and realleges paragraphs 1 through 43 as though fully set forth herein.

45. Plaintiff requests the following equitable remedies and relief in this matter.

46. Plaintiff requests a declaration by this Court that the practices contested herein violate New Jersey law as set forth herein.

47. Plaintiff requests that this Court order the defendants to cease and desist all conduct inconsistent with the claims made herein going forward, both as to the specific plaintiff and as to all other individuals similarly situated.

48. To the extent that plaintiff was separated from employment and to the extent that the separation is contested herein, plaintiff requests equitable reinstatement, with equitable back pay and front pay.

49. Plaintiff requests, that in the event that equitable reinstatement and/or equitable back pay and equitable front pay is ordered to the plaintiff, that all lost wages, benefits, fringe benefits and other remuneration is also equitably restored to the plaintiff.

50. Plaintiff requests that the Court equitably order the defendants to pay costs and attorneys' fees along with statutory and required enhancements to said attorneys' fees.

51. Plaintiff requests that the Court order the defendants to alter their files so as to expunge any reference to which the Court finds violates the statutes implicated herein.

52. Plaintiff requests that the Court do such other equity as is reasonable, appropriate and just.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstatement, and any other relief the Court deems equitable and just.

COSTELLO & MAINS, LLC

By: /s/ Drake P. Bearden, Jr.
Drake P. Bearden, Jr.

Dated: June 26, 2020

DEMAND TO PRESERVE EVIDENCE

1. All Defendants are hereby directed and demanded to preserve all physical and electronic information pertaining in any way to Plaintiff's employment, to Plaintiff's cause of action and/or prayers for relief, to any defenses to same, and pertaining to any party, including, but not limited to, electronic data storage, closed circuit TV footages, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages and any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, twitter, MySpace, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

2. Failure to do so will result in separate claims for spoliation of evidence and/or for appropriate adverse inferences.

COSTELLO & MAINS, LLC

By: /s/ Drake P. Bearden, Jr.
Drake P. Bearden, Jr.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

COSTELLO & MAINS, LLC

By: /s/ Drake P. Bearden, Jr.
Drake P. Bearden, Jr.

RULE 4:5-1 CERTIFICATION

1. I am licensed to practice law in New Jersey and am responsible for the captioned matter.
2. The matter of *Robert Harper v. Amazon.com Services, Inc.*, 3:19-cv-21735, is a class action lawsuit currently in the United States District Court for the District of New Jersey, that may involve similar facts as this case.
3. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

COSTELLO & MAINS, LLC

By: /s/ Drake P. Bearden, Jr.
Drake P. Bearden, Jr.

DESIGNATION OF TRIAL COUNSEL

Drake P. Bearden, Jr., Esquire, of the law firm of Costello & Mains, LLC, is hereby-designated trial counsel.

COSTELLO & MAINS, LLC

By: /s/ Drake P. Bearden, Jr.
Drake P. Bearden, Jr.

COSTELLO & MAINS, LLC

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Attorney I.D. No. 039202009
18000 Horizon Way, Suite 800
Mount Laurel, NJ 08054
(856) 727-9700
Attorneys for Plaintiff

ROBERT HARPER

Plaintiff(s),

vs.

AMAZON.COM SERVICES, INC. and
JOHN DOES 1-5 AND 6-10.

Defendant(s).

SUPERIOR COURT OF NEW JERSEY

MERCER COUNTY - LAW DIVISION

CIVIL ACTION

DOCKET NO: MER-L-1146-20

SUMMONS

From The State of New Jersey to the Defendant Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiffs' attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-

576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf

/s/ Michelle M. Smith
Clerk of the Superior Court

DATED: July 1, 2020

Name of Defendant to be Served: Amazon.com Services, Inc.

Address of Defendant to be Served: Princeton South Corporate Center, Suite 160
100 Charles Ewing Boulevard
Ewing, NJ 08628

ATLANTIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401

LAWYER REFERRAL

(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Room 115
Justice Center, 10 Main St.
Hackensack, NJ 07601

LAWYER REFERRAL

(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:

Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Fl., Courts Facility
49 Rancocas Road
Mt. Holly, NJ 08060

LAWYER REFERRAL

(609) 261-4862
LEGAL SERVICES
(800) 496-4570

CAMDEN COUNTY:

Deputy Clerk of the Superior Court
Civil Processing Office
Hall of Justice
1st Fl., Suite 150
101 South 5th Street
Camden, NJ 08103

LAWYER REFERRAL

(856) 964-4520
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:

Deputy Clerk of the Superior Court
9 N. Main Street
Cape May Courthouse, NJ 08210

LAWYER REFERRAL

(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
Broad & Fayette Streets
P.O. Box 10
Bridgeton, NJ 08302

LAWYER REFERRAL

(856) 692-6207
LEGAL SERVICES
(856) 451-0003

ESSEX COUNTY:

Deputy Clerk of the Superior Court
Civil Customer Service
Hall of Records, Room 201
465 Dr. Martin Luther King Jr. Blvd.
Newark, NJ 07102

LAWYER REFERRAL

(973) 622-6204
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Intake
First Fl. Court House
Woodbury, NJ 08096

LAWYER REFERRAL

(856) 848-4589
LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY:

Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Brennan Court House – 1st Floor
583 Newark Avenue
Jersey City, NJ 07306

LAWYER REFERRAL

(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:

Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822

LAWYER REFERRAL

(908) 735-2611
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY:

Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 S. Broad Street, P.O. Box 8068
Trenton, NJ 08650

LAWYER REFERRAL

(609) 585-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:

Deputy Clerk of the Superior Court
Middlesex Vicinage
2nd Floor – Tower
56 Paterson Street
New Brunswick, NJ 08903

LAWYER REFERRAL

(732) 828-0053
LEGAL SERVICES
(732) 866-0020

MONMOUTH COUNTY:

Deputy Clerk of the Superior Court
Court House
71 Monument Park
P.O. Box 1269
Freehold, NJ 07728

LAWYER REFERRAL

(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY:

Deputy Clerk of the Superior Court
Civil Division
Washington and Court Streets
P.O. Box 910
Morristown, NJ 07963

LAWYER REFERRAL

(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:

Deputy Clerk of the Superior Court
Court House, Room 119
118 Washington Street
Toms River, NJ 08754

LAWYER REFERRAL

(732) 240-3666
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division
Court House
77 Hamilton Street
Paterson, NJ 07505

LAWYER REFERRAL

(973) 278-9223
LEGAL SERVICES
(973) 523-2900

SALEM COUNTY:

Deputy Clerk of the Superior Court
92 Market Street
P.O. Box 29
Salem, NJ 08079

LAWYER REFERRAL

(856) 678-8363
LEGAL SERVICES
(856) 451-0003

SOMERSET COUNTY:

Deputy Clerk of the Superior Court
Civil Division
P.O. Box 3000
40 North Bridge Street
Somerville, NJ 08876

LAWYER REFERRAL

(908) 685-2323
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY:

Deputy Clerk of the Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860

LAWYER REFERRAL

(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY:

Deputy Clerk of the Superior Court
1st Fl., Court House
2 Broad Street
Elizabeth, NJ 07207

LAWYER REFERRAL

(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:

Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvedere, NJ 07823

LAWYER REFERRAL

(973) 267-5882
LEGAL SERVICES
(973) 475-2010

Civil Case Information Statement

Case Details: MERCER | Civil Part Docket# L-001146-20

Case Caption: HARPER ROBERT VS AMAZON.COM SERVICES, INC.

Case Initiation Date: 06/26/2020

Attorney Name: DRAKE P BEARDEN JR

Firm Name: COSTELLO & MAINS, LLC

Address: 18000 HORIZON WAY STE 800

MT LAUREL NJ 080544319

Phone: 8567279700

Name of Party: PLAINTIFF : HARPER, ROBERT

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: EMPLOYMENT (OTHER THAN CEPA OR LAD)

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: ROBERT HARPER? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Employer/Employee

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

06/26/2020

Dated

/s/ DRAKE P BEARDEN JR

Signed